

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID LIONEL CARPENTER,
Petitioner,
v.
MARCUS POLLARD, Warden,
Respondent.

No. 2:20-cv-0908 WBS KJN P

ORDER

Petitioner is a state prisoner, proceeding without counsel. This action was stayed on June 14, 2021, in order to allow petitioner to exhaust his state court remedies. (ECF No. 33.)

However, on July 23, 2021, petitioner filed a document captioned “In the Supreme Court of California,” In re: DAVID LIONEL CARPENTER, On Habeas Corpus, and styled, “Petition for Review to Exhaust State Remedies.” (ECF No. 34.) The appended proof of service attests to service on opposing counsel, the Butte County Superior Court, the Third District Court of Appeal, and the Eastern District of California, but no mention of mailing to the California Supreme Court. Indeed, review of the online records for the California Supreme Court reflect no such filing on behalf of petitioner.¹

¹ The court may take judicial notice of facts that are “not subject to reasonable dispute because it . . . can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned,” Fed. R. Evid. 201(b), including undisputed information posted on official websites. Daniels-Hall v. National Education Association, 629 F.3d 992, 999 (9th Cir. 2010). It is appropriate to take judicial notice of the docket sheet of a California court. White v.


1 It appears petitioner mailed his petition to the wrong court. Petitioner is advised that this
2 court may not file documents on behalf of litigants. The Clerk of the Court is directed to return
3 the original petition (hard copy) to petitioner so that he may serve the petition on the proper court:
4 California Supreme Court, 350 McAllister St., Suite 1295, San Francisco, CA 94102. Petitioner
5 is not required to serve copies of his petition on the state lower courts. Rather, he is only required
6 to serve copies of his filings on opposing counsel. This court will retain the electronic copy of the
7 petition intended for state court, but it is disregarded.

8 Petitioner is cautioned that he must file his petition with the California Supreme Court in
9 order to exhaust his state court remedies. Failure to do so will result in a recommendation that his
10 unexhausted claims (one through seven and twelve) be dismissed.

11 Accordingly, IT IS HEREBY ORDERED that:

- 12 1. The Clerk of the Court is directed to return petitioner's original petition for review
13 (hard copy) (ECF No. 34) to petitioner at his address of record;
- 14 2. The petition filed July 23, 2021 (ECF No. 34) is disregarded; and
- 15 3. Petitioner shall forthwith file his petition with the California Supreme Court, 350
16 McAllister St., Suite 1295, San Francisco, CA 94102.

17 Dated: July 28, 2021

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19 KENDALL J. NEWMAN
20 UNITED STATES MAGISTRATE JUDGE

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27 Martel, 601 F.3d 882, 885 (9th Cir. 2010). The address of the official website of the California
28 state courts is www.courts.ca.gov.